



**UNITED STATES MARINE CORPS**  
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION  
1600 HENDERSON AVENUE, SUITE 238  
SAN DIEGO, CALIFORNIA 92140-5001

IN REPLY REFER TO  
5720

1A  
OCT 22 2020

Mr. Stephen E. Cohodes  
515 Ivy Lane Apt 3  
San Diego, CA 92103

Dear Mr. Cohodes:

This letter is a supplement response to your July 22, 2020, Freedom of Information Act (FOIA) request initially seeking "the EEO report from Mr. Michael Walker regarding Stephen E Cohodes and complaint against Mr. Scott Snider at MCCS San Diego." Your request was updated confirming it was not the EEO report you seek, but the Management Inquiry. Your request was received by this office on July 27, 2020, but perfected September 9, 2020, and is controlled under file number DON-USMC-2020-010211.

Under procedures established in Secretary of the Navy Instruction (SECNAVINST) 5720.42F, a search for the responsive records was conducted and the management inquiry was found. Attached is the responsive document with appropriate redactions.

Some information is exempt from release under FOIA exemptions 5 U.S.C. § (b)(5) and (b)(6). Exemption (b)(5), protects inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than the agency in litigation with the agency, known as attorney client privilege. Exemption (b)(5) also protects the deliberative process privilege, the general purpose of which is to "prevent injury to the quality of agency decisions." Further, "predecisional" documents are not only those circulated within the agency, but can also be those from an agency lacking decisional authority which advises another agency possessing such authority. Exemption 6 protects information about individuals' "personnel and medical files and similar files" when disclosure of information "would constitute a clearly unwarranted invasion of personal privacy."

In view of the above, you may consider this to be an adverse determination that may be appealed. If you have an account created in FOIAonline website, you may submit an appeal directly within the web-based system. To do this, you would log in to your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. The basic information from your request will be duplicated for you,

and then you can type in the basis of your appeal. If you prefer to use regular mail, you may submit an appeal to the Department of the Navy, Office of the General Counsel (ATTN: FOIA APPEALS), 1000 Navy Pentagon, Room 5A532, Washington, DC 20350-1000. Your appeal, if any, must be postmarked within 90 calendar days from the date of this letter and should include a copy of your initial request, a copy of this letter, and a statement indicating why you believe your appeal should be granted. I recommend that your appeal and its envelope both bear the notation, "Freedom of Information Act Appeal".

You also have the right to seek assistance and/or dispute resolution services from the Marine Corps FOIA Public Liaison, Ms. Sally Hughes, at [hqmcfoia@usmc.mil](mailto:hqmcfoia@usmc.mil) or (703) 614-4008, and/or the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil) or (703) 697-0031. You may also contact the Office of Government Information Services (OGIS) for assistance and/or dispute resolution at [ogis@nara.gov](mailto:ogis@nara.gov) or 1-877-684-6448. For more information online about services provided by OGIS, please visit their website at <https://ogis.archives.gov>.

There are no fees associated with this request. I am the official responsible for this action.

Should you have questions about this action, please contact Ms. Cinthia Camacho via email at [cinthia.camacho@usmc.mil](mailto:cinthia.camacho@usmc.mil).

Sincerely,



M. N. MCCONNELL  
Lieutenant Colonel  
U.S. Marine Corps  
Staff Judge Advocate

Enclosure:

(1) Copy of Management Inquiry Redacted.

FOR OFFICIAL USE ONLY

12000  
1 June 2020

From: (b) (6), (b) (7)(C) [REDACTED] - Investigating Officer, Marine Corps Community Services, Marine Corps Base, Camp Pendleton

To: (b) (6), (b) (7)(C) [REDACTED] Deputy and Assistant Chief of Staff, Marine Corps Community Services, Marine Corps Recruit Depot, San Diego

Subj: MANAGEMENT INQUIRY INTO CLAIMS OF HOSTILE WORK ENVIRONMENT, HARASSMENT, AND DISCRIMINATION

Ref: (a) MCO P12000.11A W/CH 5  
(b) DOD 1400.25 Volumes 1405, 1406

Encl: (1) Appointing Order by Mr. (b) (6), (b) (7)(C) [REDACTED], dated April 17, 2020  
(2) EEO MCRD SD Email by Ms. (b) (6), (b) (7)(C) [REDACTED], dated April 6, 2020  
(3) Summary of Interview by Witness Mr. Stephen Cohodes, dated April 24, 2020  
(4) Summary of Interview by Witness Mr. Stephen Cohodes, dated April 30, 2020  
(5) Summary of Interview by Witness Mr. Stephen Cohodes, dated May 18, 2020  
(6) Summary of Interview by Witness Mr. Stephen Cohodes, dated May 19, 2020  
(7) Summary of Interview by Witness Mr. (b) (6), (b) (7)(C) [REDACTED], dated April 23, 2020  
(8) Summary of Interview by Witness Mr. (b) (6), (b) (7)(C) [REDACTED], dated May 1, 2020  
(9) Summary of Interview by Witness Ms. (b) (6), (b) (7)(C) [REDACTED], April 23, 2020  
(10) Summary of Interview by Witness Ms. (b) (6), (b) (7)(C) [REDACTED], dated April 30, 2020  
(11) Summary of Interview by Witness Ms. (b) (6), (b) (7)(C) [REDACTED], dated May 15, 2020  
(12) Summary of Interview by Witness Ms. (b) (6), (b) (7)(C) [REDACTED], dated April 29, 2020  
(13) Summary of Statement by Witness Ms. (b) (6), (b) (7)(C) [REDACTED], dated May 4, 2020  
(14) Summary of Interview by Witness Ms. (b) (6), (b) (7)(C) [REDACTED], dated April 30, 2020  
(15) Summary of Statement by Witness Ms. (b) (6), (b) (7)(C) [REDACTED], dated May 26, 2020  
(16) Summary of Interview by Witness Ms. (b) (6), (b) (7)(C) [REDACTED], dated May 6, 2020  
(17) Summary of Interview by Witness Ms. (b) (6), (b) (7)(C) [REDACTED], dated May 6, 2020  
(18) Summary of Interview by Witness Ms. (b) (6), (b) (7)(C) [REDACTED], dated May 7, 2020  
(19) Summary of Interview by Witness Mr. (b) (6), (b) (7)(C) [REDACTED], May 15, 2020  
(20) Summary of Interview by Witness Mr. (b) (6), (b) (7)(C) [REDACTED] May 20, 2020  
(21) Summary of Interview by Witness Mr. (b) (6), (b) (7)(C) [REDACTED] May 28, 2020  
(22) Self-Identification of Disability Form SF 256, Mr. Stephen Cohodes

ENCLOSURE (1)

Subj: INVESTIGATION OF CLAIMS OF HOSTILE WORK ENVIRONMENT, HARASSMENT, AND DISCRIMINATION BASED ON AGE AND DISABILITY AT MARINE CORPS COMMUNITY SERVICES, MARINE CORPS RECRUIT DEPOT, SAN DIEGO

- (23) Annual Performance Appraisal 2018, Mr. Stephen Cohodes dated April 30, 2020
- (24) Memo to File Job Review by Mr. Cohodes, dated August 15, 2019
- (25) CG Letter Commending Financial Management Evaluation and Assessment, dated August 22, 2020
- (26) Letter of Caution by Mr. (b) (6), (b) (7)(C) [REDACTED], dated October 28, 2019
- (27) Mid-Year Appraisal Update 2019, Mr. Stephen Cohodes, dated November 5, 2020
- (28) Response to Letter of Caution by Mr. Cohodes, dated December 5, 2019
- (29) Memo to File, Email about Letter of Reprimand seen on Mr. (b) (6), (b) (7)(C) [REDACTED]'s email, dated March 11, 2020
- (30) Notice of Proposed Suspension by Mr. (b) (6), (b) (7)(C) [REDACTED], dated March 20, 2020
- (31) Response to Notice of Proposed Suspension by (b) (6), (b) (7)(C) [REDACTED], Esq., Attorney of Mr. Stephen Cohodes, dated April 1, 2020
- (32) Decision on Notice of Proposed Suspension by Mr. (b) (6), (b) (7)(C) [REDACTED], dated April 6, 2020
- (33) Response to Decision on Notice of Proposed Suspension by (b) (6), (b) (7)(C) [REDACTED], Esq., dated April 13, 2020
- (34) Letter of Reprimand - Work Performance by Mr. (b) (6), (b) (7)(C) [REDACTED], dated April 15, 2020
- (35) Email from Mr. (b) (6), (b) [REDACTED] to Ms. (b) (6), (b) (7)(C) [REDACTED] (b) (6), (b) [REDACTED], dated April 21, 2020
- (36) Response to Letter of Reprimand by (b) (6), (b) (7)(C) [REDACTED] (b) (6), (b) (7)(C) [REDACTED], dated April 29, 2020
- (37) Email Notification of Allegations against Mr. Cohodes, dated May 13, 2020
- (38) Email to EEO to file Amendment of EEO complaint, dated May 14, 2020
- (39) Email from the Law Office of (b) (6), (b) (7)(C) [REDACTED], Esq., dated May 22, 2020
- (40) Memo to file Ms. (b) (6), (b) (7)(C) [REDACTED] email exchange with Mr. Cohodes, May 22, 2020
- (41) Memo for the Record - Call from Ms. (b) (6), (b) (7)(C) [REDACTED], dated May 28, 2020
- (42) Text Message Exchange between Mr. Cohodes and Ms. (b) (6), (b) [REDACTED], May 22, 2020
- (43) MCCS Leave Request Form
- (44) Position Description of Chief Financial Officer, MCCS MCRD San Diego
- (45) Mr. Stephen Cohodes Training Transcript - Ethos 2018-2019, dated May 7, 2020
- (46) Training Slides [FLMA] - Supervisors
- (47) Training Slides [FLMA] - Employee Statuses
- (48) Email Exchange between Mr. Cohodes and Ms. (b) (6), (b) (7)(C) [REDACTED], dated March 24, 2020
- (49) Resume, Mr. Stephen Cohodes
- (50) EEOC Sample Interview Questions
- (51) MCCS Internal Instruction 12630.4B [FMLA], dated April 4, 2005
- (52) Commanding General Policy Statement on Civilian Employment Opportunity and Anti-Harassment, BGen R.P. Heritage
- (53) Depot Order 12720.1A Request for Reasonable Accommodations, dated February 2, 2019
- (54) DON Workplace Anti-Harassment Policy Statement, May 1, 2018
- (55) DODI NAF Leave 1400.25-V1406

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## 1. Preliminary Statement

Pursuant to Enclosure (1), I was appointed by Mr. (b) (6), (b) (7)(C) [REDACTED], Assistant Chief of Staff, MCCA, Marine Corps Base, Camp Pendleton, on behalf of Mr. (b) (6), (b) (7)(C) [REDACTED], Deputy and Assistant Chief of Staff, MCCA, MCRD SD, to conduct a management inquiry to investigate allegations of a hostile work environment, harassment, and discrimination based on age and disability raised by Stephen Cohodes, Chief Financial Officer (CFO), Marine Corps Community Services (MCCA), Marine Corps Recruit Depot (MCRD) San Diego (SD), against Mr. (b) (6), (b) (7)(C) [REDACTED], Deputy Director, MCCA, MCRD SD.

This management inquiry was conducted during a Coronavirus Disease 2019 (COVID-19) outbreak, when safety measures were put in place by the Marine Corps and Federal, State, and Local Authorities to help prevent the spread of the virus. The main safety measures that had an impact on this inquiry were the teleworking of key witnesses and the restriction of travel. Consequently, all interviews between the Investigating Officer and the witnesses were conducted by telephone. Face to face interviews and inspections of the work spaces of MCCA MCRD SD were not done.

Another factor that impacted the inquiry by lengthening the inquiry process was ongoing MCCA correspondence to Mr. Stephen Cohodes and Mr. Cohodes's written responses by way of his agent, (b) (6), (b) (7)(C) [REDACTED], (b) (6), (b) (7)(C) [REDACTED]. The correspondence brought forward information that warranted further investigation.

Additionally, during the interview process of this Inquiry, three allegations of a hostile work environment were made from each of the three Finance Department Employees, Ms. (b) (6), (b) (7)(C) [REDACTED], Ms. (b) (6), (b) (7)(C) [REDACTED], and Ms. (b) (6), (b) (7)(C) [REDACTED] against Mr. Stephen Cohodes. Ms. (b) (6), (b) (7)(C) [REDACTED] also made an additional allegation of a harassment and discrimination based on age against Mr. Stephen Cohodes. I was appointed by Mr. (b) (6), (b) (7)(C) [REDACTED] to investigate the five additional allegations as part of the original Management Inquiry.

Mr. Stephen Cohodes was notified of the allegations made by his employees, resulting in his filing of an amendment to his original Equal Employment Opportunity (EEO) filing with an additional allegation of retaliation against Mr. (b) (6), (b) (7)(C) [REDACTED], Ms. (b) (6), (b) (7)(C) [REDACTED], Ms. (b) (6), (b) (7)(C) [REDACTED], and Ms. (b) (6), (b) (7)(C) [REDACTED]. I was appointed by Mr. (b) (6), (b) (7)(C) [REDACTED] to investigate the additional allegation by Mr. Cohodes as a part of the original Management Inquiry.

## 2. Findings of Fact

a. Mr. Cohodes was hired to be CFO, MCCA, MCRD SD and assumed the duties of CFO on 29 October 2018. [Encl (3), (7), and (9)].

b. During the selection and hiring process of MCCA for the position of CFO, Mr. Cohodes did not indicate that he had a disability. [Encl (3), (9), (22), and (49)].

c. Mr. Cohodes stated: "I didn't think of myself as having a disability." [Encl (3)].

d. The Position Description (PD) of the CFO describes a wide latitude to

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provide executive level control of the MCCS Financial resources (Appropriated and Nonappropriated funds) with substantial advisory support in decision making processes on planned and on-going program activities for financial accounts in excess of \$55,000,000, annually. Incumbent of this position is expected to exercise substantial freedom in planning, organizing, and directing the integrated financial management program, providing financial program analysis and evaluation reporting, interpreting financial results of operations, and providing advisory services and assistance to operating managers on fiscal program issues. The MCCS Director and/or Deputy Director provide policy guidance. [Encl (44)].

e. Per MCCS policy, Mr. Cohodes underwent a one-year probation period that began on 29 October 2018. [Encl (3), (4) and (8)].

f. Employees who fail to meet satisfactory standards of performance and cooperation are subject to termination at any time during the probationary period. [Encl (47)].

g. On 30 April 2019, Mr. (b) (6), (b) (7)(C) issued Mr. Cohodes an annual performance evaluation for 2018, with performance ratings of "Meets Expectations" in all performance categories. [Encl (23)].

h. The performance evaluation issued on 30 April 2019 was based on approximately five months of observed performance. [Encl (7), (8), and (23)].

i. Between January 2019 and July 2019, Mr. Cohodes practiced "flextime" on occasions, where he would complete 40 hours of work in the workplace prior to close of business on Thursdays, and then take off from the workplace usually beginning on Thursday afternoons through Fridays. Mr. Cohodes would return to work on Monday mornings for regular work hours. [Encl (4), (7), and (8)].

j. The "flextime" provided Mr. Cohodes additional time off from work on "3 or 4" occasions to address medical matters or provide care for his parents. [Encl (3) and (4)].

k. The "flextime" permitted Mr. Cohodes to take time off from work that he would not have been able to take with paid leave. Mr. Cohodes had a low leave balance as a consequence of being a relatively new employee. [Encl (3), (4), (7), and (8)].

l. Mr. (b) (6), (b) (7)(C) stated that during the first half of 2019, he did not deny Mr. Cohodes's requests to be flexible with his schedule because Mr. Cohodes did not have a lot of leave accrued. [Encl (7)].

m. Mr. (b) (6), (b) (7)(C) stated that Mr. Cohodes's practice of flexing time was becoming a standard practice to supplement leave. [Encl (7) and (8)].

n. On 15 August 2019, Mr. (b) (6), (b) (7)(C) informed Mr. Cohodes in a face to face meeting that it was not proper to flex time to supplement his leave balance. Mr. (b) (6), (b) (7)(C) requested that Mr. Cohodes discontinue the practice. [Encl (3), (7) and (8)].

o. Mr. Cohodes complied with the Mr. (b) (6), (b) (7)(C)'s directive. [Encl (3) and (7)].

p. Mr. Cohodes reported that on 15 August 2019, Mr. (b) (6), (b) (7)(C) provided Mr.

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Cohodes a quarterly performance review with overall performance ratings of "Meets Expectations," and that Mr. (b) (6), (b) (7)(C) provided guidance on how to improve performance. [Encl (3), (4), and (24)].

q. On 22 August 2019, the Assistant Chief of Staff, M CCS, received a letter from the Commanding General, MCRD SD, for M CCS's commendable performance during a 20 August 2019 Financial Management Evaluation and Assessment, in which Mr. Cohodes and Ms. (b) (6), (b) (7)(C) were cited for "No findings or discrepancies were found." [Encl (25)].

r. On 28 October 2019, Mr. Cohodes's probation period ended. [Encl (4) and (8)].

s. On 28 October 2019, Mr. (b) (6), (b) (7)(C) presented Mr. Cohodes with a Letter of Caution (LOC). The stated intent in the LOC was "not to show fault but to highlight areas in which you need to improve, as well as be able to guide, mentor and assist you in obtaining the knowledge and skills required of a CFO for M CCS." The LOC contained eight paragraphs where individual areas of performance were addressed and guidance was provided. Mr. Cohodes was provided ninety days, until January 25, 2020, to demonstrate substantial improvement in the areas outlined in the letter. The letter stated, "Should improvement not be achieved, it may be necessary to recommend disciplinary action, which could include termination of your employment." [Encl (3), (7), (9), and (26)].

t. Mr. Cohodes stated that he was surprised and shocked at receiving the LOC. [Encl (4)].

u. Ms. (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), Human Resources, M CCS, MCRD SD, stated that on 28 October 2019, Mr. Cohodes requested clarification and guidance from Human Resources on the LOC issued by Mr. (b) (6), (b) (7)(C). Ms. (b) (6), (b) (7)(C) stated that she said to Mr. Cohodes, "I explained this was a non-disciplinary counseling letter to make him aware of his supervisor's observations of his deficiencies in the performance of his job. I further explained that this was not grievable unless he felt it was discriminatory, in which he replied no." [Encl (9)].

v. On 5 December 2019, in response to the LOC, Mr. Cohodes sent a memorandum to Mr. (b) (6), (b) (7)(C) in which Mr. Cohodes disagreed with the content and context of the LOC.

Excerpts from the Memorandum:

"The timeline shows that your review changed in 8 weeks from a "meets expectations" to a caution letter threatening me with dismissal."

"When you hired me, you told me as the former CFO, you would mentor me, teach me what I needed to know - and said that it would take at least a year for me to learn."

"You and the hiring committee were aware that I had no prior government experience."

"I have been required to work some 30 hours extra a month for the past 13 months or some 390 hours for which I have not received comp time or pay - and I almost never can take lunch."

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"I am happy to do whatever I am asked to help but I was not hired as a financial tech and there are few CFO's who do all their own data Inputting." [Encl (28)].

w. Mr. Cohodes stated that on 28 January 2020, during a meeting between Mr. Cohodes and Mr. (b) (6), (b) (7)(C), Mr. Cohodes requested guidance on whether he was meeting the terms of the 28 October 2019 LOC. Mr. Cohodes stated Mr. (b) (6), (b) (7)(C) refused to answer his question. [Encl (4) and (36)].

x. On 11 March 2020, Mr. Cohodes and Mr. (b) (6), (b) (7)(C) met in Mr. (b) (6), (b) (7)(C)'s office to conduct business. During the meeting, a computer display screen, which was mounted on the wall of the office, displayed an email from Mr. (b) (6), (b) (7)(C) referring to a Letter of Reprimand for Mr. Cohodes. [Encl (7), (8), 29, and (30)].

y. Mr. (b) (6), (b) (7)(C) stated he was not aware that the email was accidentally displayed on the screen. [Encl (7)].

z. Mr. Cohodes noticed the email on the screen on 11 March 2020. Mr. Cohodes reported that he made a statement to Mr. (b) (6), (b) (7)(C) that resembled: "(b) (6), (b) (7)(C), you have not warned me about this. This is completely unfair. Then I will take this up with Mr. (b) (6), (b) (7)(C) and my lawyer." Mr. Cohodes stated that Mr. (b) (6), (b) (7)(C) responded, "Well, you know I don't agree with you." [Encl (29) and (31)].

aa. Mr. (b) (6), (b) (7)(C) reported that he recollected his response to Mr. Cohodes on 11 March 2020, as "I am sorry you feel that way," or words to that affect. [Encl (7) and (30)].

bb. On 20 March 2020, Mr. (b) (6), (b) (7)(C) issued Mr. Cohodes a Notice of Proposed Suspension for the charge of insubordination. It stated, "On 11 March 2020, the verbal outburst you displayed as you exited my office. That your remark, 'I am going to Mr. (b) (6), (b) (7)(C) and you will be seeing my lawyers' or words to that affect was disrespectful and insubordinate." [Encl (30)].

cc. The Notice of Proposed Suspension moved to suspend Mr. Cohodes without pay for a period of two days. The Notice stated based on MCO P12000.11 W/CH 5 and that Mr. Cohodes has no prior discipline, a Letter of Reprimand is the minimum discipline. [Encl (30)].

dd. On 1 April 2020, Mr. Cohodes responded to the Notice of Proposed Suspension with a letter from his Attorney, Ms. (b) (6), (b) (7)(C) [REDACTED] [REDACTED].

Excerpts from the Letter:

"Supervisor (b) (6), (b) (7)(C)'s pattern of discrimination, Harassment and retaliation resulted in the issuing Mr. Cohodes a Letter of Caution in October 2019 and a Notice of Proposed Suspension in March 2020 despite Mr. Cohodes adequately performing is job duties."

"From April 2019 through July 2019, Mr. Cohodes made requests for time off in order to obtain cancer treatment in New York or to care for his elderly parents. Supervisor (b) (6), (b) (7)(C) continuously made it difficult for Mr. Cohodes to receive approval for his requests."

"Supervisor (b) (6), (b) (7)(C) scolded Mr. Cohodes for requesting flex time and



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that it would only be approved if Mr. (b) (6), (b) (7)(C) "let him".

"Despite Mr. (b) (6), (b) (7)(C)'s opposition to Mr. Cohodes time off, on August 14, 2020, Supervisor (b) (6), (b) (7)(C) issued Mr. Cohodes quarterly performance evaluation which indicated a rating of "meets expectations".

"Throughout this timeframe, Mr. Cohodes had numerous daily communications with (b) (6), (b) (7)(C), regarding Supervisor (b) (6), (b) (7)(C)'s hostile and discriminatory treatment. Mr. Cohodes directed HR (b) (6), (b) (7)(C) not to file any formal complaints at the time as he was attempting to rectify the situation and continue to perform his job duties."

"Despite Mr. Cohodes receiving a positive performance evaluation in August of 2019, Supervisor (b) (6), (b) (7)(C) issued him a "Letter of Caution" only eight weeks later for alleged performance problems."

"After Mr. Cohodes received the formal signed copy in November 2019, he provided a detailed response which indicated his belief that he was being disparately treated in comparison to similarly situated CFO's with more experience at Miramar and Camp Pendleton as they did not receive a Letter of Caution for facing a similar back log."

"During this time, Mr. Cohodes continued to engage in communication with (b) (6), (b) (7)(C) stating that he was suffering from a hostile work environment."

"After Mr. Cohodes provided his response to the Letter of Caution, Supervisor (b) (6), (b) (7)(C) continued in his efforts to retaliate against him and subject him to a hostile work environment. On approximately January 29, 2020, Mr. Cohodes informed Supervisor (b) (6), (b) (7)(C) that he needed to take three days of sick leave. Mr. Cohodes notified (b) (6), (b) (7)(C) of the reasons for his sick leave which involved a trip to New York to obtain cancer treatment. Despite Mr. Cohodes notifying Ms. (b) (6), (b) (7)(C), Supervisor (b) (6), (b) (7)(C) pressed Mr. Cohodes as to who would be covering him while he was gone and demanded that he obtain a doctor's note. Mr. Cohodes complied with Supervisor (b) (6), (b) (7)(C)'s request and provided a doctor's note indicating that he may require up to seven days to recover from the treatment. After Mr. (b) (6), (b) (7)(C) reviewed the note he aggressively questioned why Mr. Cohodes required seven days of leave. Mr. Cohodes notified (b) (6), (b) (7)(C) that he did not feel comfortable disclosing the information to Mr. (b) (6), (b) (7)(C). Ms. (b) (6), (b) (7)(C) confirmed that Mr. (b) (6), (b) (7)(C) did not need to see any doctors note and that he was not approved to review his personal private information regarding his serious medical condition."

"On March 11, 2020, Mr. Cohodes attended a weekly performance meeting with Supervisor (b) (6), (b) (7)(C) that was scheduled to ensure that Mr. Cohodes was meeting the requirements under the October 2019 Letter of Caution. During the meeting, Supervisor (b) (6), (b) (7)(C) displayed his computer screen on an overhead TV showing Mr. (b) (6), (b) (7)(C)'s email to an MCCS attorney requesting a Letter of Reprimand against Mr. Cohodes. Mr. Cohodes immediately addressed this with Mr. (b) (6), (b) (7)(C) that he had not received any warnings or indications that he was not meeting the expectations. Mr. Cohodes repeatedly requested that Mr. (b) (6), (b) (7)(C) that Mr. (b) (6), (b) (7)(C) inform him if he was meeting the expectations of the Letter of Caution, however

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Mr. (b) (6), (b) (7)(C) consistently refused to answer."

"Mr. (b) (6), (b) (7)(C) further refused to provide Mr. Cohodes with his quarterly review in comparison to similarly situated employees."

"As a result, Mr. Cohodes told Mr. (b) (6), (b) (7)(C) that the Letter of Reprimand against him was unfair and he would report the unfairness to the Assistance Chief of Staff Mr. (b) (6), (b) (7)(C) and his counsel."

"The statement made by Mr. Cohodes was not disrespectful and did not constitute insubordination. Rather, Mr. Cohodes actions were reasonable as he had never received a formal counselling sheet or counselling session from Supervisor (b) (6), (b) (7)(C) at any time during his employment pursuant to MCCS Protocol."

"In addition, directly after his meeting, Mr. Cohodes reported the incident to HR Director Broadway."

"An Employee may "oppose" unlawful harassment or discrimination by reporting to the employer. As such, Mr. Cohodes, communication to Supervisor (b) (6), (b) (7)(C) that he would be reporting the events that transpired during the meeting did not constitute "insubordinations." Rather, Mr. Cohodes activity of reporting is protected by law."

"The culmination of events that led up to the March 11<sup>th</sup> meeting involved various actions taken against Mr. Cohodes by Supervisor (b) (6), (b) (7)(C) constituting a pattern of harassment and a hostile work environment after he requested time off for his serious medical condition and to provide care for his elderly parents."

"Despite his need for time off work, Mr. Cohodes was never informed of his rights to take protected Family Medical Leave."

"At the time Mr. Cohodes was served the Notice of Proposed Suspension, Supervisor (b) (6), (b) (7)(C) requested that he come into the office despite his need to work remotely as a result of the COVID-19 outbreak. Mr. (b) (6), (b) (7)(C) was well aware of Mr. Cohodes susceptibility to the virus, that he was over the age of 65 and that California had issued a shelter in place order."

"Mr. Cohodes is requesting that the Notice of Proposed Suspension immediately be vacated. Mr. Cohodes is further requesting that his work environment be remedied in order for him to continue to perform his duties as MCCS Chief Financial Officer." [Encl (31)].

ee. On 2 April 2020, Mr. Cohodes contacted the EEO office at MCRD SD. [Encl (2)].

ff. On 6 April 2020, Ms. (b) (6), (b) (7)(C), MCRD/Western Recruiting Region Equal Employment Opportunity Specialist and Reasonable Accommodation Coordinator, sent an email to (b) (6), (b) (7)(C), Director MCCS, informing Mr. (b) (6), (b) (7)(C) that Mr. Cohodes made initial contact with the EEO office on 2 April 2020, and made allegations against Mr. (b) (6), (b) (7)(C), Deputy Director MCCS, and that Mr. Cohodes alleges harassment, a hostile work environment, and discrimination based on age and disability. [Encl (2)].

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gg. Ms. (b) (6), (b) (7)(C)'s email of 6 April 2020, further stated "Specifically, the complainant is alleging discrimination when:

\*On 20 March 2020, a Notice of Proposed Suspension was issued to the Complainant by Mr. (b) (6), (b) (7)(C). Additionally, in the month of October 2019, he was issued a Letter of Caution as well.

\*Mr. (b) (6), (b) (7)(C) interfered with the Complainant's right to family medical leave and retaliation for requesting leave as an accommodation for his serious medical condition. Specifically, from April 2019 through July 2019, Mr. Cohodes made requests for time off in order to obtain cancer treatment in New York or to care for his elderly parents. Mr. (b) (6), (b) (7)(C) continuously made it difficult for Mr. Cohodes to receive approval for his requests.

\*Events referenced on his written statement involved various actions taken against Mr. Cohodes by Mr. (b) (6), (b) (7)(C) describe a pattern of harassment and a hostile work environment after he requested time off." [Encl (2)].

hh. Ms. (b) (6), (b) (7)(C)'s email of 6 April 2020, also stated that Mr. Cohodes requested the following remedies: 1) That the Notice of Proposed Suspension immediately be vacated and 2) Mr. Cohodes's work environment be remedied in order for him to continue to perform his duties as the MCCS CFO. [Encl (2)].

ii. On 6 April 2020, Mr. (b) (6), (b) (7)(C) sent a decision letter to Mr. Cohodes, where Mr. (b) (6), (b) (7)(C) mitigated the proposed two days suspension to a one day suspension. Mr. (b) (6), (b) (7)(C) further decided to hold the one day suspension in abeyance, so long as no subsequent similar unprofessional comments or behavior is displayed within the six months following this decision. [Encl (32)].

jj. On 13 April 2020, Mr. Codes responded to the 6 April 2020, Decision Letter with a letter from his Attorney, Ms. (b) (6), (b) (7)(C) [REDACTED] [REDACTED] [REDACTED]

Excerpts from the Letter:

"Please be advised that Mr. Cohodes has filed an EEO claim regarding the adverse employment actions that were taken against him including subjecting him to a hostile work environment, ongoing harassment, interference with the right to take Family Medical Leave for his medical condition of cancer and retaliation for such requests."

"Although Mr. Stephen Cohodes does not appeal the outcome of the mitigation decision, the failure to reverse this disciplinary action constitutes an adverse employment action based on Mr. Cohoes engagement in protected activity."

"Mr. Cohodes is requesting that his work environment be remedied which is outlined in his EEO claim."

"Mr. Cohodes will consider any future adverse employment actions taken against him to be in retaliation for engaging in protected activity by reporting to Supervisor (b) (6), (b) (7)(C) of his rights to seek counsel and report to Human Resources and the chain of command."

"Lastly, Mr. Cohodes is requesting that the six month abeyance for the

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one day begin on March 20, 2020, the date of the original Letter of Cation as opposed to April 6, 2020." [Encl (33)].

kk. On 15 April 2020, Mr. (b) (6), (b) (7)(C) issued a Letter of Reprimand to Mr. Cohodes in response to the LOC dated 28 October 2019, and for the performance rating period of 28 October 2019 to 15 February 2020. In the Letter of Reprimand, Mr. (b) (6), (b) (7)(C) states that based on Mr. Cohodes's performance during that rating period, Mr. Cohodes did not perform satisfactorily in the majority of areas outlined in the LOC. In the Letter of Reprimand, Mr. (b) (6), (b) (7)(C) addressed the seven areas of performance of the LOC in paragraphs "a" through "g", in which two areas of performance were rated as "Satisfactory", one area was rated as "Did Not Meet Expectations", and four other areas of performance were rated "Unsatisfactory". [Encl (34)].

ll. In the 15 April 2020 Letter of Reprimand, Mr. (b) (6), (b) (7)(C) indicated substantial improvement was not achieved in accordance with the LOC. [Encl (34)].

mm. On 17 April 2020, (b) (6), (b) (7)(C) ██████████, MCCS, Camp Pendleton, was appointed to investigate the circumstances surrounding Mr. Cohodes's allegations against Mr. (b) (6), (b) (7)(C). [Encl (1)].

nn. On 21 April 2020, Mr. (b) (6), (b) (7)(C) ██████ responded by email to Ms. (b) (6), (b) (7)(C) ██████'s letter, dated 13 April 2020.

Excerpts from the Letter:

"Firstly, I am aware that Mr. Cohodes has filed an EEO claim against the organization and his supervisor. Please be advised that as a result of Mr. Cohodes' claims, a Management Inquiry has been initiated to examine said allegations. It is imperative that Mr. Cohodes makes himself available to the investigating officer during the conduct of this investigation."

"Secondly, regarding the request for the six month abeyance to start on 20 March vice 6 April 2020, as specified in my decision; Mr. Cohodes is not appealing my decision so it stands as dictated and expires on 6 October 2020."

"Thirdly, regarding the statement, "...your November 2019 meeting with Mr. Cohodes, you did not vacate the letter as requested in response to his appeal. However, you did agree to direct Supervisor (b) (6), (b) (7)(C) to remove any mention of a Letter of Caution in the written six month review including removing the phrase that Mr. Cohodes 'is at risk of a needs improvement rating.'...". This statement is either a misunderstanding or is mischaracterization of the situation and discussion that occurred in November, 2019."

"Mr. Cohodes received a Letter of Caution from his supervisor as part of a performance improvement plan. A Letter of Caution is administrative in nature and does not constitute an adverse disciplinary action and thus cannot be grieved or appealed."

"Final Year-end performance appraisals are not yet due, so the language

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Mr. Cohodes references and for which he is concerned is moot and any language that does appear in the final appraisal is subject to rebuttal by the employee."

"Mr. Cohodes is within his rights to submit for any inter-MCCS transfer for which he is qualified. If he submits during the abeyance period and no subsequent inappropriate behavior has occurred, he is to be considered without the suspension letter being a document of record. However, if the suspension is enacted due to additional misconduct than the significance and substance of the suspension is a determination for the receiving organization to consider when reviewing his transfer request." [Encl (35)]

oo. On 29 April 2020, Mr. Cohodes responded to the 15 April 2020 Letter of Reprimand with a letter from his Attorney, Ms. (b) (6), (b) (7)(C) ., which included claims and responses to specific performance areas outlined in the Letter of Reprimand and requests.

Excerpts from the Letter:

"We contend this Letter of Reprimand constitutes an adverse employment action and demonstrates an ongoing pattern of discrimination, retaliation and harassment by his supervisor."

"We do not agree with the comments made by Supervisor (b) (6), (b) (7)(C) regarding Mr. Cohodes' performance from the period of October 28, 2019 to February 15, 2020 and find some of them factually incorrect."

"Supervisor (b) (6), (b) (7)(C) began a campaign of disparate treatment and harassment against Mr. Cohodes after Supervisor (b) (6), (b) (7)(C) became aware that he was turning 65, suffered from cancer requiring one to three days travel for occasional treatment, and had elderly parents that he needed to see regularly for their care."

"Although Supervisor (b) (6), (b) (7)(C) reluctantly agreed to approve Mr. Cohodes' requests for leave, however, he was subjected to retaliation as a result of his requests."

"Mr. Cohodes was also never advised of his legal right to protected FMLA despite Supervisor (b) (6), (b) (7)(C) and Human Resources knowledge of his need for intermittent short leave."

"Such retaliatory treatment in response to legally protected leave escalated in the Fall leading up to 1) the Letter of Caution in October 2019, continued with 2) the letter with the false charge of insubordination in March 2020 and 3) the Letter of Reprimand cited above in April 2020."

"Mr. Cohodes was not provided any indication that he was failing to perform his job duties until after Supervisor (b) (6), (b) (7)(C) understood that he was requesting protected leave and received a meets expectation in all categories for his two prior performance evaluations."

"The pattern of harassment worsened after Mr. Cohodes sought medical leave on October 9, 2019 to obtain treatment at Sloan Kettering Memorial Cancer Center in New York."

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"Despite Supervisor (b) (6), (b) (7)(C) approving the medical leave, Mr. Cohodes received multiple emails questioning whether there was adequate accounting coverage during his three day absence as Supervisor (b) (6), (b) (7)(C) began the process of issuing the Oct 28, 2019 Letter of Caution."

"During October 2019, Mr. Cohodes planned on going to a symposium at Quantico, Virginia to meet his colleagues and learn more about the MCCS organization, which Supervisor (b) (6), (b) (7)(C) attended. After creating additional unnecessary work rather than answer Mr. Cohodes' questions directly, Supervisor (b) (6), (b) (7)(C) told Mr. Cohodes that he could not take the trip given the heavy coming accounting workload, interfering with Mr. Cohodes improving his performance as CFO and meeting his colleagues although Supervisor (b) (6), (b) (7)(C) found time to attend."

"Many of the specific allegations made by Supervisor (b) (6), (b) (7)(C) in the Letter of Reprimand reference the drastic changes in the accounting office outside of Mr. Cohodes' control, including the reduction of staff from ten to three as the base accounting office transferred over daily accounting offsite to the Shared Service Center (SSC)."

"At this same time, Supervisor (b) (6), (b) (7)(C) began an escalating a pattern of micro-managing Mr. Cohodes' performance and creating impossible deadlines in comparison to other similarly situated MCCS Chief Financial Officers."

"Moreover, Supervisor (b) (6), (b) (7)(C) engaged in the following retaliatory behavior as follows:

- Refusing to answer Mr. Cohodes' direct work questions;
- Creating hours of additional retaliatory workload;
- Continuously undermining Mr. Cohodes CFO position by reducing his duties to a financial analyst while keeping information and high level discussions from the CFO;
- Preventing Mr. Cohodes from attending senior base and off-base meetings, including the one at Quantico;
- Preventing Mr. Cohodes from being a direct advisor to senior leaders as specified in the CFO job description despite the fact that Mr. Cohodes was the sole person at MCCS legally responsible for approving MCCS financials; and
- Refusing to respond to specific performance questions as they related to Mr. Cohodes' performance."

"As a result of the actions taken against Mr. Cohodes by Supervisor (b) (6), (b) (7)(C), he has made repeated requests to (b) (6), (b) (7)(C) and Assistant Chief of Staff (b) (6), (b) (7)(C) that his work environment be remedied. These requests have been ignored." [Encl (36)].

pp. In the letter dated 29 April 2020, Mr. Cohodes further responded to the 15 April 2020 Letter of Reprimand with specific responses to the specific areas that Mr. (b) (6), (b) (7)(C) had outlined.

Excerpts from the Letter:

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"Obtaining a Working Understanding of Accounting Personnel's duties. This area of performance was unsatisfactory. The growth in knowledge is a concern considering you are more than sixteen (16) months into the position as CFO NF5. The following are some examples of gaps in understanding and or knowledge as demonstrated by you: running reports in Computron (i.e. UFM spending by CAC); Performing budget Genex; Balance sheet reconciliations; Payroll queries and reporting codes."

"Mr. Cohodes generated numerous reports sent to Supervisor (b) (6), (b) (7)(C) using Computron and Cognos software and has demonstrated this ability repeatedly. He tracks eligible and refunded UFM by unit (CAC) and combined the results with tracking deficiency lists, something more advanced than originally requested. He has responded to numerous queries by Supervisor (b) (6), (b) (7)(C) and can provide those emails to demonstrate his understanding of accounting personnel's duties and his responsiveness to those requests."

"Mr. Cohodes generally does not perform GENEX, which is a clerking function designed to enter accounting changes into the general ledger. The CFO function is deciding on needed changes and which accounts to use. That said, he can do GENEX's and entered them in the last two weeks."

"Mr. Cohodes oversees balance sheet reconciliations and assesses if they tie to the general ledger and problem issues. He does not perform the spreadsheet analyses himself, which is a learning curve and an account analyst function - where even analysts with ten years' experience can take a day to reconcile an account. Mr. Cohodes works with the analysts to oversee the results and pushed for more accurate and better reconciliations."

"He performs numerous payroll queries in PeopleSoft as Supervisor (b) (6), (b) (7)(C) is well aware, submitting emails demonstrating that he has done so and communicated those queries both to Supervisor (b) (6), (b) (7)(C) and others."

"Creating Standard Operating Procedure (SOP). This area of performance was unsatisfactory. Specitlclly, related to the establishment of SOPs for "leave behind" staff, while an Excel spreadsheet listing duties and person responsible was received on the deadline, no SOPs were provided by the deadline of 13 December 2019. On 15 January 2020, during one of our weekly progress update conversations you indicated you were gathering the various SOPs to place them in a central file. On 28 January 2020, you indicated you had placed SOPs related to tasks you performed in a network folder however, your subordinate had not completed her part of the task; thus the task remained incomplete. Also during this meeting you asked if you were required to review SOPs for the leave behind staff, as you did not have the time."

"Going forward you are to review all SOPs related to your division, to include those from your subordinates. Upon completion of your review, please provide my office all copies for my review. I will provide feedback within 45 days. Additionally, any missing or incomplete SOPs need to be prepared or completed within 45 days from the date on this letter. Further as a supervisor and Director you must understand you are responsible for all tasks within your Division. The failure of a

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subordinate assigned to your office to submit work, is not a mitigating reason not to compete a task you are responsible le for."

"You are again strongly encouraged to have a working understanding of your staffs duties and responsibilities. Work with your staff; if needed my office can also provide other resources such as online courses and DoD and MC publications which may assist."

"This paragraph misstates the situation and is incorrect. In the initial Letter of Caution, Supervisor (b) (6), (b) (7)(C) assigned Mr. Cohodes a deadline of Friday, December 13, 2019 to rewrite approximately 50 SOP's (Standard Operating Procedures) and to create numerous new SOP's to document all major accounting operations in his Letter of Caution dated Oct 28 2019. The amount of work required far exceeded the deadline and created an undue hardship due to Mr. Cohodes' medical leave and when he was in the middle of finalizing Federal year-end and budgets. The December 13th deadline would have been almost impossible to meet even if Mr. Cohodes had no other duties. Supervisor (b) (6), (b) (7)(C) acknowledges he was provided an Excel spreadsheet of accounting duties by staff within the timeframe including a list of existing SOP's. Supervisor (b) (6), (b) (7)(C) later acknowledged the impossibility of the deadline and delayed it until after the February retail year-end. However, the dates provided in the Letter of Caution were created after Mr. (b) (6), (b) (7)(C) was aware that Mr. Cohodes had Thanksgiving and Christmas leave to take care of parents. Similarly situated CFO's are treated differently and are not subjected to constant arbitrary deadlines, micro-management, in addition to required HQ operational deadlines that they all meet."

"On January 28, Mr. Cohodes provided an updated spreadsheet detailing the existing SOP's as well the various duties of accounting staff and those SOP's that corresponded to the duties. Supervisor (b) (6), (b) (7)(C) requested prioritization for SOP's to update and agreed that given the retail (NAF) year-end close, it was not possible to update the SOP's until the year closed. Mr. Cohodes asked Supervisor (b) (6), (b) (7)(C) to prioritize- but Supervisor (b) (6), (b) (7)(C) said that it was up to Mr. Cohodes as CFO."

"Mr. Cohodes didn't ask about not creating SOP's for leave behind staff- or if he had to review them - he understood that that would be necessary but he did ask about delaying the duties - there wasn't enough time. He did say that his subordinates needed to work on the year-end close and could not take time for the SOP's given the workload, as Supervisor (b) (6), (b) (7)(C) was well aware."

"Following the Letter of Caution, for which Mr. Cohodes not only had no warning but also never received any formal letter or counseling as required, Mr. Cohodes requested the Friday off after Thanksgiving so he had time to fly to Florida to care for his elderly parents. All accounting staff wanted the Friday off after Thanksgiving, which Mr. Cohodes decided was fair after their working extra hours under great stress to complete budgets plus closing the Federal Fiscal Year. As a result, Mr. Cohodes requested closing accounting that Friday. Despite being head of the department and CFO, Supervisor (b) (6), (b) (7)(C) insisted that Mr. Cohodes seek his permission. Mr. Cohodes was further aware that the Friday after Thanksgiving was "Black Friday" sales day but, after asking retail, found they had no need for accounting to remain open."



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Moreover, he had cleared with Ms. (b) (6), (b) (7)(C) [REDACTED], that she would be there in case any payroll checks needed to be printed that Friday. There was endless discussion on whether she could get into accounting even though there is an available key that she has obtained and given to accounting staff numerous times to open the department in Mr. Cohodes' absence. Supervisor (b) (6), (b) (7)(C) made receiving leave clearance difficult. Again, Supervisor (b) (6), (b) (7)(C) ensured that even if my client had the day off- he would constantly worry about what could go wrong in his absence. Supervisor (b) (6), (b) (7)(C) subsequently sent Mr. Cohodes four additional emails regarding these issues. By the time Supervisor (b) (6), (b) (7)(C) approved the request, Mr. Cohodes was unable to secure a flight that allowed him to travel in time."

"During this November timeframe when working on budgets and trying to get permission to take off the Friday after Thanksgiving, Mr. Cohodes needed to answer a HQ budget question about the differences in results from FY17 to FY18. Mr. Cohodes had the numbers; however he required background information to accurately explain them. Supervisor (b) (6), (b) (7)(C) told Mr. Cohodes at 9am to run several reports, which would explain the results despite Supervisor (b) (6), (b) (7)(C)'s knowledge that Mr. Cohodes was the only one in accounting that day. Finally, at 3:15pm, Mr. Cohodes again requested an explanation for the differences in the numbers. Instead of providing an answer, Supervisor (b) (6), (b) (7)(C) told him to run other additional reports that also didn't show the reason. Mr. Cohodes asked again and Supervisor (b) (6), (b) (7)(C) again told Mr. Cohodes to run another 12 page report."

"Finally at the end of the day, Supervisor (b) (6), (b) (7)(C) told Mr. Cohodes that the differences were because Base had given an extra \$3 million at the last minute, which reduced expenses and boosted profits. It was a one sentence answer that could have been just as easily given eight hours earlier instead of making my client run report after report. The answer allowed the background needed for filling out the forms that took all of five minutes after wasting all day on unnecessary reports. This is an example of the type of unnecessary additional workload Supervisor (b) (6), (b) (7)(C) placed on Mr. Cohodes after he requested time off to care for his elderly parents at Thanksgiving."

"There were additional instances of adverse employment actions taken against Mr. Cohodes by Supervisor (b) (6), (b) (7)(C). On Friday Nov 22, 2019, Mr. Cohodes was ill, yet came into his office to work on the FY20 budget and closing Federal Fiscal Year End. In the midst of a heavy workload, Supervisor (b) (6), (b) (7)(C) requested a last minute analysis of military clothing for HQ, a relatively minor part of the budget. This was part of a contentious issue initiated by Supervisor (b) (6), (b) (7)(C) who received an accounting change in the calculation of the fees that the Base was charged on military clothing sales that Base and the Comptrollers' office felt was unfair and refused to pay. There were previous issues that needed to be worked out between the respective offices. This was the same office that Mr. Cohodes needed to approve and transfer \$6 million a year and didn't want to insert himself into a process with an office whose goodwill was needed by MCCS to receive their funding. Supervisor (b) (6), (b) (7)(C) requested the analysis immediately and if there were problems to let him know by 9am Friday, since the report was due Sam Monday on the East Coast. Supervisor (b) (6), (b) (7)(C) was in meetings at 9am until noon. Mr. Cohodes notified Supervisor (b) (6), (b) (7)(C) that he preferred

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not to stay late because he was sick. Despite this, Supervisor (b) (6), (b) (7)(C) gave him a list of reports and research that took an additional three hours. Supervisor (b) (6), (b) (7)(C) finally met with Mr. Cohodes at 3:30p.m. and pulled the data he needed in five minutes not needing or using any of Mr. Cohodes' results."

"Following the delay in receiving permission to close accounting the day following Thanksgiving, Mr. Cohodes responded to Supervisor (b) (6), (b) (7)(C)'s Letter of Caution on December 8, 2019 via an emailed 8-page memo addressing the inaccuracies that Supervisor (b) (6), (b) (7)(C) never addressed. This memo was also provided to (b) (6), (b) (7)(C) and had been reviewed by (b) (6), (b) (7)(C). Supervisor (b) (6), (b) (7)(C)'s retaliation increased after Mr. Cohodes defended himself as was his protected right. Furthermore, although Mr. (b) (6), (b) (7) has stated in his letter to us that the Letter of Caution is not part of the permanent file, that is incorrect - Supervisor (b) (6), (b) (7)(C) noted at the bottom of the formal 6-month review that Mr. Cohodes was in danger of receiving a "does not meet expectations" which remained as part of the file as of last week."

"Creating a Calendar of Events. This area of performance was satisfactory.

Due to the multiple deadlines and various departments your office interfaces with, and to keep track of your time sensitive responsibilities, it is again recommended you place additional focus on utilizing Outlook calendar or similar organizational tools to track internal and external deadlines and tasks.

NAF Budget Process. The execution of the annual 1 NAF budget did not meet expectations. The 18 November 2019 deadline for the submittal of the budget deliverables to MR/MF was not met. The budget you presented to me on the morning of the scheduled budget brief with the Chief of Staff had several issues which required additional revisions. Moving forward with the next budget cycle you will be required to develop a timeline for division heads and local Finance to follow. You will provide me weekly e-mail updates on progress and execution of each phase of the budget process. In addition, you will work with the division heads on a budget brief to the MCCS Director by division well ahead of the submission deadline to MRJMF."

"On November 14, 2019, due to a very tight schedule, Mr. Cohodes had planned to meet with the chief of staff of the Commanding General to review the FY20 budget, which the General needed to sign. It was a complicated budget exceeding \$40 million. This was an earlier meeting than Mr. Cohodes requested due to the General's travel. Mr. Cohodes had requested a later meeting and had arranged permission from HQ on Oct 16, 2019 to submit the preliminary budget subject to the General's approval (who so far previously had never requested any budget changes). This subject-to-approval budget submission was what another CFO had arranged."

"When Mr. Cohodes sent an email to Supervisor (b) (6), (b) (7)(C) requesting this process, he was refused since Supervisor (b) (6), (b) (7)(C) insisted the General needed to review anything prior to submission. Supervisor (b) (6), (b) (7)(C) refused to provide Mr. Cohodes the same fairness as other CFO's and interfered with his carrying out his duties."

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"Finally, a month later on Nov 13 2019, after driving Mr. Cohodes and his staff to rush their work on the budget, Supervisor (b) (6), (b) (7)(C) authorized submitting the preliminary budget subject to the General's approval. One question remains that why the decisions on the budget were not the decision of the CFO who was legally responsible for the budget."

"On the day of the presentation to the General's chief of staff, after working 10 and 11 hour days and arriving early in the morning to finalize the presentation, Mr. Cohodes found out at 11am that Supervisor (b) (6), (b) (7)(C) had cancelled the presentation without discussing it with Mr. Cohodes. When Mr. Cohodes went to see Supervisor (b) (6), (b) (7)(C) to ask why he was not consulted given he was CFO, Supervisor (b) (6), (b) (7)(C) responded with a smile, "I thought that was what you wanted." This is another example of harassment and disparate treatment in comparison to other similarly situated CFOs. It is also a demonstrable pattern of behavior by Supervisor (b) (6), (b) (7)(C) to create stress by arbitrary deadlines as in the two other instances in November 2019 above."

"Due to the above, there was a delay in submitting the preliminary budget, which HQ had approved as it had requests for delays from other CFOs requesting it. The final budget was delivered on time and approved with only a few minor changes from HQ. The General requested no changes. As for changes in the numbers for the report to the General, these numbers were projections, the changes were non-material and changing until the budget was locked down due to various business units changing small line items so that it was difficult to know until the Cognos computer system updated itself- which happens twice a day."

"Shared Service Reports. This area of performance was unsatisfactory. With the transition to the Shared Services Center (SSC) in August 2019, your monitoring to ensure SSC receives all required paperwork and documents timely, and inform me of any discrepancies that need to be addressed is your responsibility as CFO. I am here to mentor, provide guidance or suggest solutions to ensure MCCS San Diego is doing their part to avoid period closing delays. During the improvement period, I received one or two e-mails from you related to minor issues with the SSC. On 20 February 2020, however, MR provided a SSC status report indicating in Period 10 there were 9 of 10 "must have" document categories missing from MCRD San Diego; while in Period 12, it was reported 17 DARs that were not submitted timely. When questioned about this discrepancy you stated all DARs were submitted timely and the SSC was reporting the DARs as missing in error.

Going forward-on a monthly basis you are to confirm, with documentation if necessary, if SSC is reporting back document categories and/or DARs that are not received by the deadlines. If needed, you should obtain email confirmation from SSC staff, or have the SSC take screen shots of missing documents from their shared drive, if a report or document cannot be obtained by the deadline. Additionally, if the delivery of the document(s) is delayed by another division, I need to know."

"Mr. Cohodes did not state that all DARs (daily sales) were "timely" nor did he make any similar statements given the multitude of problems and numerous people involved during the transition to the offsite

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accounting services (SSC). Mr. Cohodes said he would look into it but that often the SSC claimed missing DARs when they couldn't find them and they had been submitted."

"Furthermore, it is impossible for accounting to track DARs because 1) they are the responsibility of the business units who are tasked with placing them into the SSC folders on a shared drive, and 2) once they are dropped into the share drive folders, the DARs disappear when the SSC takes them for processing. The only way accounting knows a DAR is missing is when SSC specifically requests the missing DAR. Once it is determined that something is missing, the SSC or accounting asks the business unit involved to place the file in the folder. It is not unusual that SSC is mistaken and has not correctly notated delivered DARs so that after they request missing DARs, the business unit sends an email showing the time and date the missing DAR had been delivered. Given these issues and following the public report Supervisor (b) (6), (b) (7)(C) refers to, where SSC listed all the various base's missing DARs and other issues, accounting began a tracking list in order to respond to such mistakes and accusations. All the CFOs take these SSC reports with a grain of salt, given that the SSC has to justify their existence and whose mistakes and problems are known throughout the entire MCCA."

"Accounting has created a tracking list in order to respond to such false accusations and mistakes. The custom and practice involves accounting to follow up with the units to correct any errors, which often occur. Supervisor (b) (6), (b) (7)(C) is well aware of the numerous problems with the SSC and blames Mr. Cohodes for a situation he was hired to oversee and has been much more laborious and difficult than originally planned. Mr. Cohodes and other CFO's regularly work with the SSC to deal with this reality. Supervisor (b) (6), (b) (7)(C) has subjected Mr. Cohodes to disparate treatment in comparison to his fellow CFO's. Moreover this request micromanages the CFO's duties and inserts Supervisor (b) (6), (b) (7)(C) into accounting's relationship with the SSC. Supervisor (b) (6), (b) (7)(C)'s micromanagement generates extra work for Mr. Cohodes in comparison to similarly situated CFO's."

"Further, the request for Mr. Cohodes to obtain screen shots from SSC of missing documents is not possible as one can't screenshot something that is missing. It is Mr. Cohodes' contention that this is another example of Supervisor (b) (6), (b) (7)(C) setting him up for failure by making requests that are impossible."

"Supervisor (b) (6), (b) (7)(C) is well aware of the numerous problems with the SSC since Mr. Cohodes has discussed such lapses frequently in their weekly meetings. Mr. Cohodes and his fellow CFO's work with the SSC to deal with reality as it is given SSC's current abilities as opposed to Supervisor (b) (6), (b) (7)(C)'s unrealistic expectations. Supervisor (b) (6), (b) (7)(C) blaming Mr. Cohodes for the issues with other business units (who report to Supervisor (b) (6), (b) (7)(C)) that he does not have any control over further demonstrates Supervisor (b) (6), (b) (7)(C)'s attempts to set him up for failure."

"At the time Mr. Cohodes requested medical leave for three days beginning on January 29, 2020 for a biopsy in New York, Supervisor (b) (6), (b) (7)(C) continued his hostile behavior towards him by demanding a doctor's note. Supervisor (b) (6), (b) (7)(C) made this request despite MCCA policy not requiring doctor notes if the leave does not exceed three days."

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Although Mr. Cohodes was not required to obtain a note, he showed the note to Supervisor (b) (6), (b) (7)(C) on his cell phone at which point Supervisor (b) (6), (b) (7)(C) requested a hard copy for the file. Mr. Cohodes notified HR this was privileged medical information that Supervisor (b) (6), (b) (7)(C) had no right to request. Supervisor (b) (6), (b) (7)(C) thereafter began the process of issuing Mr. Cohodes the Letter of Reprimand and refused to conduct a quarterly review in retaliation for Mr. Cohodes refusal to provide a copy of the doctor's note and subsequent report to Human Resources. Supervisor (b) (6), (b) (7)(C) in fact performed quarterly reviews with all similarly situated MCCS directors under Supervisor (b) (6), (b) (7)(C)'s supervision which further demonstrates the discrimination and disparate treatment that Mr. Cohodes has been consistently subjected to."

"On January 28, 2020, the day before leaving for the biopsy, Mr. Cohodes had his weekly meeting with Supervisor (b) (6), (b) (7)(C) and requested guidance on whether he was meeting the terms of the Letter of Caution and what he needed to do. Supervisor (b) (6), (b) (7)(C) refused to answer, however, and instead angrily stated that he had postponed Mr. Cohodes' review until mid-February. He then commented that Mr. Cohodes had written an 8 page rebuttal that could be reviewed at that time, over two months after the memo was sent. Supervisor (b) (6), (b) (7)(C) refused to respond further and wouldn't provide any guidance. Later, Supervisor (b) (6), (b) (7)(C) refused to hold any quarterly review with Mr. Cohodes in comparison to all other directors. The mid-February review as detailed in and postponed via email to Feb 15 2020 also never took place."

"Following Mr. Cohodes' return from his medical leave at the end of January 2020, Supervisor (b) (6), (b) (7)(C) continued his pattern of harassment against Mr. Cohodes. For example, an outdated 4 page contract charging billeting for services provided by accounting and HR required revisions. It was a simple contract between two internal departments on the same base. Yet, Supervisor (b) (6), (b) (7)(C) requested four drafts, numerous edits, multiple calculations and multiple emails wherein he dictated to the CFO how to charge for services from accounting. The normal method of deciding on fees in a meeting and then a final meeting to review the draft was turned into an exercise by Supervisor (b) (6), (b) (7)(C) who wasted hours of Mr. Cohodes' time. Mr. Cohodes was treated as a secretary with no authority on a minor contract of four thousand dollar per month out of an annual budget exceeding \$40 million. Supervisor (b) (6), (b) (7)(C) requested numerous calculations and multiple rewrites, which wasted hours of Mr. Cohodes' time. This is Supervisor (b) (6), (b) (7)(C)'s pattern of extra unnecessary retaliatory work to interfere with Mr. Cohodes meeting other deadlines and to interfere with Mr. Cohodes' medical and family leave."

"Quarterly Financial Brief Directorate. This area of performance was satisfactory. I do however recommend developing a format for the quarterly review so the Directors can come prepared with the appropriate copy or handout that will be reviewed and discussed. This is commonly known as a read ahead."

"This is a reasonable request - however, we question why it is part of a reprimand as opposed to a discussion between two senior executives. Moreover, each of the business units is so different that maybe a one-fits-all format may not be appropriate and should be in the CFO's purview to decide."

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"Accurate UFM Execution Reports. This area of performance was unsatisfactory. The UFM Execution Report deliverable was received on time and met the requirement although only one period was closed and reported. In order to better evaluate execution of the deliverable, I requested two additional periods be included in the UFM Execution Report. The next iteration of the deliverable revealed several errors in the report to include; incorrect totals for UFM applied in three separate programs, an incorrect execution percentage for Semper Fit, and the total UFM referenced as eligible for reimbursement was incorrect for one of the MCPC's I tested. With the SSC delays in closing periods, it also became apparent that ensuring the UFM Execution Report is updated within twenty-five (25) days of a period end, even if a period is not closed, will be critical in order to monitor over-execution in the current appropriated fund (APF) environment and ensure programs are aware and taking the appropriate steps to remain within budget. Additionally, the execution of this deliverable revealed there was no system of checks and balances in place to ensure the data being reported was accurate and balanced to the Income Statement."

"Supervisor (b) (6), (b) (7)(C) assigned a deadline of Monday January 6th in the letter of caution requiring a complicated analysis of government funding (APF) for two periods. This deadline was designed purposefully to interfere with Christmas leave and Supervisor (b) (6), (b) (7)(C) was aware that the response would likely be delayed due to work on budget s and the ensuing backlog of work once they were finished to catch up on delayed other duties."

"In the January 6, 2020 meeting, Mr. Cohodes presented a spreadsheet and requested advice on pulling the correct information as there were differences between the various systems and some of previous work on which he had relied had identifying labeling mistakes for lines of accounting for the analysis. While Supervisor (b) (6), (b) (7)(C) criticized the perceived mistakes, his suggestions were confusing and didn't provide applicable information. Supervisor (b) (6), (b) (7)(C) also asked about discrepancies in numbers between accounting and the comptroller's office."

"Supervisor (b) (6), (b) (7)(C) requested Mr. Cohodes resolve the differences, something he knew wasn't possible since there had been differences for years. Fortunately, Mr. Cohodes already had discussed this and attempted to understand these differences with the comptroller's office, who explained there have always been differences in the two sets of numbers; the comptroller bases their numbers on the money they physically receive to pass on to accounting. Supervisor (b) (6), (b) (7)(C), once again, attempted to have Mr. Cohodes work hours for a simple explanation that Supervisor (b) (6), (b) (7)(C) already knew. This forms part of Supervisor (b) (6), (b) (7)(C)'s pattern of ongoing disparate treatment and retaliation for requesting leave."

"We request that you vacate this Letter of Reprimand and remedy the repeated retaliation against Mr. Cohodes via refusal to answer questions, arbitrary additional unnecessary work, disparate treatment from other directors and CFOs, and interference with Mr. Cohodes FMLA rights, protected medically leave and reasonable accommodation for his medical condition of cancer." [Encl (36)].

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qq. Mr. Cohodes contacted the CFO's of MCCA Miramar and MCCA Camp Pendleton on numerous occasions to seek information or advice on MCCA financial matters. [Encl (12), (13), and (16)].

rr. The Accounting staff at MCCA MCRD SD was reduced from 10 personnel to 3, in compliance with the realignment of certain financial activities under a MCCA enterprise wide Shared Services Center (SSC). [Encl (4), (14), (15), (17), and (18)].

ss. Finance managers of MCCA MCRD SD, MCCA Miramar, and MCCA Camp Pendleton stated there have been challenges dealing with the newly established SSC, which has created a higher workload on the Installation Finance Office over the original assumptions. [Encl (9), (12), (14), (15), (16), (17), (18), and (19)].

#### Leave Requests

tt. From April 2019 through July 2019, Mr. Cohodes made requests for time off in order to obtain cancer treatment in New York and to care for his elderly parents. [Encl (3), (4), (7), (5), and (7)].

uu. Mr. Cohodes claims Mr. (b) (6), (b) (7)(C) continuously made it difficult for Mr. Cohodes to receive approval for his requests. [Encl (3) and (31)].

vv. Mr. Cohodes, was required to provide a doctor's note for medical leave requests for leave periods of more than 3 days. [Encl (7), (9), and (31)].

ww. Leave requests were approved by Mr. (b) (6), (b) (7)(C) once leave request requirements were accomplished. [Encl (3), (4), (7), and (43)].

xx. Mr. Cohodes stated, "Although Mr. (b) (6), (b) (7)(C) approved the written leave requests, he thereafter engaged in a pattern of retaliation and subjected me to a hostile work environment." [Encl (3), (4), and (31)].

yy. During the leave approval process, Mr. (b) (6), (b) (7)(C) asked questions of Mr. Cohodes dealing with how the operations of the Finance Department would be handled during the period of Mr. Cohodes's leave. [Encl (4) and (7)].

zz. On 15 August 2020, Mr. (b) (6), (b) (7)(C) and Mr. Cohodes discussed the proper use of flextime, proper attire in the workplace, important nature of the Nonappropriated Fund-5 position, paid and unpaid leave, and Mr. Cohodes's work performance. [Encl (4), (7), and (8)].

aaa. Mr. (b) (6), (b) (7)(C) required Mr. Cohodes provide a doctor's note for the medical leave request for the period 29-31 January 2020. [Encl (7) and (36)].

bbb. Prior to Mr. Cohodes's leave on 29-31 January 2020, Mr. Cohodes presented Mr. (b) (6), (b) (7)(C) the doctor's note. [Encl (7)].

#### Harassment/Hostile Work Environment

ccc. "Harassment in violation of Title VII, the ADEA and the Rehabilitation Act is any unwelcome verbal or physical conduct based on one or more of the protected bases that is objectively offensive that it alters the conditions of the victim's employment. This standard is met when:

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The conduct culminates in a tangible employment action or

The conduct was sufficiently severe or pervasive to create a hostile work environment." [Encl (50)].

ddd. The criteria for determining Harassment is "Harassment of an employee that would not occur but for the employee's race, color, sex, national origin, age, disability, or religion is unlawful, if it is sufficiently patterned or pervasive. *Hurston v. United State Postal Service*, Appeal No. 01986458 (January 19, 2001) citing *Wibstad v. United States Postal Service*, EEOC Appeal No. 01972699 (August 14, 1998). To establish a prima facie case of hostile environment harassment, a complainant must show that: (1) he belongs to a statutorily protected class; (2) he was subjected to harassment in the form of unwelcome verbal or physical conduct involving the protected class; (3) the harassment complained of was based on the statutorily protected class; and (4) the harassment affected a term or condition of employment and/or had the purpose or effect of unreasonable interfering with the work environment and/or creating an intimidating, hostile, or offensive work environment, 29 C.F.R. § 1604.11." [Encl (50)].

eee. Mr. (b) (6), (b) (7)(C) completed the required MCCS training dealing with a hostile work environment, harassment, and discrimination in the workplace during the years 2018 and 2019. [Encl (8) and (10)].

fff. Mr. Cohodes completed the required MCCS training dealing with a hostile work environment, harassment, and discrimination in the workplace during the years 2018 and 2019. [Encl (4), (9), and (10)].

ggg. Mr. (b) (6), (b) (7)(C) was asked whether Mr. Cohodes ever expressed verbally or otherwise that Mr. (b) (6), (b) (7)(C)'s conduct was unwelcome, and Mr. (b) (6), (b) (7)(C)'s answer was "No." [Encl (8)].

hhh. Mr. Cohodes was asked, "Was there ever yelling?" and Mr. Cohodes stated, "Never screaming. Sharp, raised voice once or twice..." [Encl (4)].

#### Family Medical Leave Act

iii. Mr. Cohodes did not request medical leave under the Family Medical leave Act (FMLA). [Encl (3), (4), (9), and (51)].

jjj. Mr. Cohodes stated that he was never made aware that he was eligible for FMLA covered leave, and notification is required under the law. [Encl (3) and (4)].

kkk. Mr. Cohodes stated that he completed all required MCCS training for 2018 and 2019. [Encl (4)].

lll. The Director of Human Resources reported that Mr. Cohodes received training on FMLA during his new employee orientation training and follow-on MCCS training. [Encl (9), (10) (45), (46), and (47)].

mmm. On the front page of the standard MCCS Request for Leave or Approved Absence form is a section dealing with the FMLA. The section numbered five (5) states:



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"5. Family and Medical Leave

If annual leave, sick leave, or leave without pay will be used under the Family and Medical Leave Act of 1993 (FMLA), please provide the following information:

I hereby invoke my entitlement to family and medical leave for:

Birth/Adoption/Foster care

Serious health condition of spouse, son, daughter or parent

Serious health condition of self

Contact your supervisor and/or your personnel office to obtain additional information about your entitlements and responsibilities under the FMLA. Medical certification of a serious health condition may be required by your agency." [Encl (43)].

Discrimination Based on Age

nnn. It is the policy of the Department of the Navy (DON) to ensure a work environment for all employees that is free from discrimination and harassment (both sexual and non-sexual), and to take proactive steps to prevent any form of harassment in the workplace. Harassment based upon race, color, religion, sex, national origin, age, disability, genetic information, reprisal for protected activity, or any other impermissible basis is prohibited and will not be tolerated. Harassment includes, but is not limited to, any unwelcome verbal or physical conduct that has the effect of interfering with a person's work performance or creates an intimidating, offensive, or hostile environment. Harassing behavior can include, but is not limited to, epithets; slurs; jokes; name calling; obscene gestures or sounds; obscene, vulgar, or abusive language; threatening, intimidating, or hostile acts; physical assault; and written or graphic material on DON premises, or circulated in the workplace, including electronically. [Encl (54)].

ooo. This policy covers Appropriated and Nonappropriated Fund employees. If an individual believes he or she has been discriminated against because of race, color, religion, sex, age (over 40 years), national origin, disability, genetic information, or reprisals for prior Equal Opportunity involvement, the matter must be brought to the attention of the EEO counselor within 45 days after the alleged act occurred, or the effective date of an alleged discriminatory personnel action of the date the individual knew, or reasonably should have known, that it occurred. [Encl (52)].

ppp. Mr. Cohodes's age is 65 years. [Encl (3)].

qqq. Mr. Cohodes stated Mr. (b) (6), (b) (7)(C) did not know Mr. Cohodes's age at the time of hire. [Encl (3)].

rrr. Mr. Cohodes stated Mr. (b) (6), (b) (7)(C) was informed of Mr. Cohodes's age at a later time by Mr. Cohodes during a conversation with Mr. (b) (6), (b) (7)(C). [Encl (3)].

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sss. Mr. (b) (6), (b) (7)(C) stated he does not know Mr. Cohodes's age. [Encl (7)].

#### Discrimination Based on Disability

ttt. Under the Rehabilitation Act of 1973, as amended, 29 U.S.C. §791 et seq.: "It is unlawful for an agency to discriminate against a qualified individual with a disability." [Encl (50)].

uuu. An agency must make reasonable accommodation to the known physical or mental limitations of an employee who is a qualified individual with a disability, unless the agency can demonstrate that the accommodation would impose an undue hardship on the operation of its program. [Encl (50)].

vvv. Reasonable accommodation may include, but is not limited to: (a) Making existing facilities used by employees readily accessible to and usable by individuals with disabilities, (b) Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices, appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities. 29 C.F.R. § 1630.2 (o). [Encl (50) and (53)].

www. During the selection and hiring process of MCCS for the position of CFO, Mr. Cohodes did not disclose that he had a disability. [Encl (9) and (22)].

xxx. Mr. Cohodes's disability is blood cancer, for which he receives treatment from a medical facility in the state of New York. [Encl (3)].

yyy. Mr. Cohodes reported he informed Ms. (b) (6), (b) (7)(C) around January 2019 of his blood cancer, that he was on Chemotherapy, and that he provided her with an envelope containing medical instructions in case of a workplace medical emergency. [Encl (3) and (9)].

zzz. Mr. Cohodes stated Mr. (b) (6), (b) (7)(C) is aware of Mr. Cohodes's need to obtain cancer treatment in the State of New York. [Encl (3)].

aaaa. Mr. (b) (6), (b) (7)(C) stated about Mr. Cohodes, "I am not aware of a disability." [Encl (7)].

bbbb. On 15 March 2020, Mr. Cohodes requested via text to Mr. (b) (6), (b) (7)(C) permission to telework due to his medical condition and age, which placed Mr. Cohodes in a high risk category for susceptibility to COVID-19. [Encl (4) and (8)].

cccc. Mr. Cohodes's request to telework was a request for reasonable accommodation. [Encl (53) and (50)].

dddd. The request for reasonable accommodation was immediately approved. [Encl (4) and (8)].

#### Retaliation

eeee. A complainant may establish a prima facie case of reprisal by showing that: (1) s/he engaged in a protected activity (e.g., previously filed on EEO complaint); (2) the agency was aware of the protected activity; (3) subsequently, s/he was subjected to adverse treatment by the agency; and (4)

a nexus exists between the protected activity and the adverse action. *Whitmire v. Department of the Air Force*, EEOC Appeal No. 01A00340 (September 25, 2000); *Fabish v. USPS*, EEOC Appeal No. 01981273 (June 1, 2001). [Encl (50)].

ffff. On 30 April 2020, during an interview with the Investigating Officer, Ms. (b) (6), (b) (7)(C) ██████████ made allegations of a hostile work environment against her supervisor, Mr. Stephen Cohodes. [Encl (14)].

hhhh. Ms. (b) (6), (b) (7)(C) stated the following about a telephone call from Mr. Cohodes to Ms. (b) (6), (b) (7)(C) during the Afternoon on about 16 April:

Ms. (b) (6), (b) (7)(C) was leaving work for the day, and her Common Access Card was already pulled from the computer at the time of the call.

Mr. Cohodes requested that Ms. (b) (6), (b) (7)(C) get back on the computer in order to perform a business related task.

Ms. (b) (6), (b) (7)(C) responded that she was not willing to stay at work to perform the task.

"He yelled and said he was disappointed I was not willing to help." [Encl (14)].

iiii. During the interview with the Investigating Officer, Ms. (b) (6), (b) (7)(C) asked whether she "yelled" during the telephone call with Mr. Cohodes on or about 16 April 2020, to which she stated "Yes, I kind of raised my voice because he yelled at me." [Encl (14)].

jjjj. During the interview with the Investigating Officer, Ms. (b) (6), (b) (7)(C) was asked, "Did you express in some way that his behavior was unwanted?" Ms. (b) (6), (b) (7)(C)'s response was, "Yes, I had on numerous occasions, not just that occasion, but more." [Encl (14)].

kkkk. Ms. (b)(6), (b)(7)(C) stated that on 29 April 2020, Mr. Cohodes called her and then followed up with three emails about a new task Mr. Cohodes wanted her to complete by the close of business on the same day.

Ms. (b) (6), (b) (7)(C) further stated:

That Mr. Cohodes had been aware of the task for eight days.

That Mr. Cohodes stated he could not figure it out.

That she stated to Mr. Cohodes the task could not be completed in the timeframe.

"I emailed the HR Director to complain yesterday." [Encl (14)].



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against her supervisor Mr. Cohodes based on age during the process of reducing the number of staff members of the Financial Department. [Encl (17)].

xxxx. During the interview with the Investigating Officer, Ms. (b) (6), (b) (7) was asked, "Are you aware of any discrimination, harassment, or hostile work environment at MCCS MCRD SD?" She responded, "Yes," and then stated that the department with Mr. Cohodes is a hostile work environment. [Encl (17)].

yyyy. Ms. (b) (6), (b) (7) made further statements about Mr. Cohodes and the work environment:

Mr. Cohodes gets cranky if he doesn't understand work related numbers.

He asks for tasks to be accomplished right now.

He yells at employees.

He doesn't want Ms. (b) (6), (b) (7) or Ms. (b) (6), (b) (7)(C) questioning him. He gets offended.

When Ms. (b) (6), (b) (7) questions him about a task, he has said to her, "If you can't do it, we need to talk."

Mr. Cohodes makes Ms. (b) (6), (b) (7) feel "so uncomfortable."

"He never hesitates to talk trash about other department employees."

Mr. Cohodes harassed Ms. (b) (6), (b) (7), when he tasked her via email and then followed up with a telephone call five minutes later.

Mr. Cohodes spoke negatively about government and government jobs.

Mr. Cohodes is supposed to arrive at work at 7:30AM, and he comes in later.

The SSC continues to make mistakes and the Finance Department tries to correct them. [Encl (17)].

zzzz. Ms. (b) (6), (b) (7) alleged discrimination based on age against Mr. Cohodes, when she described a conversation with Mr. Cohodes about the drawdown of employees and stated, "He called me to his office and said we should have less problems with the daily sales reconciliation, since those two old ladies are going to retire. Old ladies are going to retire." [Encl (17)].

aaaaa. During the interview with the Investigating Officer and in the context of describing her interactions with Mr. Cohodes, Ms. (b) (6), (b) (7) stated "I have recordings if you need." [Encl (17)].

bbbbb. When Ms. (b) (6), (b) (7) was asked, "Did you or anyone ever explain to him his behavior was unwanted?" Ms. (b) (6), (b) (7) stated "YEAH! Multiple times. 'Would you please stop saying that?' He went to HR and complained that I say 'shut up.' I never used that word." [Encl (17)].

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cccc. On 7 May 2020, during an interview with the Investigating Officer, Ms. (b) (6), (b) (7)(C) made allegations of a hostile work environment against her supervisor, Mr. Cohodes. [Encl (18)].

dddd. When Ms. (b) (6), (b) (7)(C) was asked, "Are you aware of any discrimination, harassment, or hostile work environment at MCCS MCRD SD?" she responded "Just accounting. That I know of. We are speaking about Cohodes." [Encl (18)].

eeee. Ms. (b) (6), (b) (7)(C) made further statements about Mr. Cohodes and the work environment:

The two main reasons why Accounting is stressed out are the "CFO and SSC."

"I don't trust him."

"In short, incompetent. Didn't understand T accounts. That is basic accounting 101."

"We correct SSC mistakes, and we correct his mistakes."

"Witnessed him yelling at (b) (6), (b) (7)(C). It is stressful. It is too stressful to work under Stephen."

"He is always in her office, in (b) (6), (b) (7)(C)'s office yelling at her."

"Comes in late and leave early. Works less than 8 hours." [Encl (18)].

ffff. Ms. (b) (6), (b) (7)(C) stated that in mid-March 2020, she overheard a telephone conversation that was on speaker phone between Mr. Cohodes, who was teleworking, and Ms. (b) (6), (b) (7)(C), who was in the workplace. Ms. (b) (6), (b) (7)(C) described the call as follows: "On speaker phone with (b) (6), (b) (7)(C) about Genex form. 2 lines debt and credit, that is all it is. Mr. C was explaining to her about something in error. Ok, all you need to do is a Genex to fix it. Mr. C, 'You do it.' She said, 'Why would I do it? You do it, because I am doing everything else.' He said, you do it. Because 'it will take you 5 mins, but it will take me five hours.'" [Encl (18)].

ggggg. Ms. (b) (6), (b) (7)(C) stated she had an "exchange of words" with Mr. Cohodes approximately two months ago. Ms. (b) (6), (b) (7)(C) described the exchange by stating "There is ahh... one of the things at SSC made is stressful. Final report each month, he submits to other Directors, they have meetings about these numbers. Those numbers are not double checked, they are checked 5-10 times, because there are 3 of us. Multiple times each. One day I just exploded. He wanted to me to check it. I said no. You should be able to check it. It would have taken an hour. There was no time for that. Technically, we should be checking it. We checked it like 30 times. But he doesn't know how to read it. Mr. C, It is your job to check it. I did check it. He said, then we have a problem." [Encl (18)].

hhhhh. During the interview with the Investigating Officer and in the context of describing her work relationship with Mr. Cohodes, Ms. (b) (6), (b) (7)(C) stated "I am recording conversations." [Encl (18)].

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iiii. Ms. (b) (6), (b) (7)(C) stated that she was aware that Ms. (b) (6), (b) (7)(C) was taken to the emergency room by the Human Resources Director for a stress induced medical condition which caused dizziness and vomiting. [Encl (18)].

jjjj. Ms. (b) (6), (b) (7)(C) stated that she went to a doctor in November, shortly after an argument with Mr. Cohodes. Ms. (b) (6), (b) (7)(C) stated that due to her medical condition, the first question the doctor asked was, "How are your stress levels at work?" Ms. (b) (6), (b) (7)(C) stated that the doctor concluded the medical condition was stress induced. [Encl (18)].

kkkk. Ms. (b) (6), (b) (7)(C) stated that "Before the quarantine happened I wanted to file a grievance. I was researching." [Encl (18)].

llll. Ms. (b) (6), (b) (7)(C) stated "This is happening since 2018." [Encl (18)].

mmmm. On 13 May, Mr. Cohodes was notified by the Investigating Officer that three of Mr. Cohodes's employees made allegations against him for a hostile work environment, harassment, and possible discrimination based on age. [Encl (37)].

nnnn. On 14 May 2020, Mr. Cohodes filed a second EEO complaint by email to Ms. (b) (6), (b) (7)(C) [REDACTED]. The complaint stated:

"Please let this letter serve as notice that I am filing a second EEO complaint against (b) (6), (b) (7)(C) [REDACTED].

I received notice last night that all three of my accounting staff had filed hostile work environment claims against me starting from April 30 to 7 May as follows:

- April 30, 2020, Ms. (b) (6), (b) (7)(C) [REDACTED] made allegations of a hostile work environment against her supervisor, Mr. Stephen Cohodes.

- May 6, 2020, Ms. (b) (6), (b) (7)(C) [REDACTED] made allegations of a hostile work environment and harassment against her supervisor, Mr. Stephen Cohodes. Ms. (b) (6), (b) (7)(C) [REDACTED] alleged possible discrimination against her supervisor Mr. Stephen Cohodes based on age during the process of reducing the number of staff members of the financial department.

- May 7, 2020, Ms. (b) (6), (b) (7)(C) [REDACTED] made allegations of a hostile work environment against her supervisor, Mr. Stephen Cohodes.

The complaints by my subordinates further demonstrate the retaliation against me as a result of my original EEO complaint against Mr. (b) (6), (b) (7)(C) [REDACTED]. The allegations made by the subordinates occurred after my initial EEO complaint and were made during a time that I have not been in the office due to the Covid-19 pandemic for ten weeks since March 13 2020.

As indicated in my original EEO complaint, Supervisor (b) (6), (b) (7)(C) [REDACTED] demands forced additional pressure on me and my subordinates with additional workloads as well as blaming us for the problems with the SSC transition, which was decided before I was hired as CFO, and includes the decision to reduce accounting staff from ten to three. The issues faced by accounting involve deadlines and workloads that are determined by both our HQ and Supervisor (b) (6), (b) (7)(C) [REDACTED]. Thus, the work

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conditions of my subordinates are a direct result of HQ and Supervisor (b) (6), (b) (7)(C)'s directives. I have attempted to make the SSC transition as smooth a process as possible for MCCA and accounting staff during a difficult period. I have worked with these three subordinates for over eighteen months during difficult circumstances but maintained a productive working relationship.

It is my contention these complaints are the direct result of the investigation and demonstrates a continuing pattern of harassment and retaliation." [Encl (38)].

oooo. On 15 May, Ms. (b) (6), (b) (7)(C), sent an email to Mr. (b) (6), (b) (7)(C) to inform him that Mr. Cohodes amended his EEO filing. The email stated: "This email is to notify you that Mr. Stephen Cohodes is amending his informal complaint and adding the basis of Reprisal, his statement is provided below for your awareness..." [Encl (38)].

ppppp. Mr. Cohodes responded to the Investigating Officer about the allegations of Ms. (b) (6), (b) (7)(C), Ms. (b) (6), (b) (7)(C), and Ms. (b) (6), (b) (7)(C) in two Summary of Interviews on 18 and 19 May 2020. [Encl (5) and (6)].

qqqqq. The Investigating Officer asked Mr. Cohodes, "Are you aware of your employees crying? If yes, describe." Mr. Cohodes stated: "No. I was never told if they were. The only one was (b) (6), (b) (7)(C), when I first started when she thought I took the side of a food and beverage person over her as described in more detail earlier. She was hurt that she thought I was taking his side against her and was diminishing her. I felt badly and told her that I would always back my people - but that I was trying to make peace and understand what had happened. I was new. And she has never forgiven me." [Encl (5)].

rrrrr. Mr. Cohodes further stated, "About making people regularly cry, that is a distortion and a lie." [Encl (5)].

sssss. The Investigating Officer asked Mr. Cohodes, "Did Ms. (b) (6), (b) (7)(C) express to you in some way that your behavior was unwanted?" Mr. Cohodes stated "Unhappy, sometimes yes. I am her boss and we have deadlines to meet. Her complaints escalated at the end of April. She has complained that I don't help her enough and that I can't do all the things that she does as (b) (6), (b) (7)(C) did. Her complaining has increased and gotten rude. In the end, what matters is that she does her job. I try to ignore it since I don't want a confrontation. Her complaints to me echo what (b) (6), (b) (7)(C) have said that I need to be able to be (b) (6), (b) (7)(C)'s backup and know more of the data processes. But yes, (b) (6), (b) (7)(C) be rude and this has been observed by others. I have been patient with her and more than understanding. She gets stressed so I don't want to add to it by confronting her. She is out of the office a lot and I have always approved her leave requests." [Encl (5)].

ttttt. Mr. Cohodes further responded about a 4:30AM call he received from Ms. (b) (6), (b) (7)(C) in March 2020. He stated, "When I asked her why, she said it was because I asked her to call me. She doesn't communicate well and doesn't always call back. I had finally sent her an email the previous afternoon - but I had called her and spoken to her later that afternoon - so she had already spoken to me and knew that when she read the email asking her to call - and called at 430am. I was shocked at the aggressiveness of a call that early but all I said was that I didn't understand it given we had already



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spoken the previous afternoon and why so early. Her response was that was when she gets up. I didn't say anything further." [Encl (5)].

uuuuu. Mr. Cohodes stated, "I don't yell at people, no. I get frustrated sometimes. The staff in accounting led by (b) (6), (b) (7)(C) can be rude - and (b) (6), (b) (7)(C) has set a bad example. They do their work so I mostly ignore the annoyed tones or the arguing with me particularly from (b) (6), (b) (7)(C). I also know that (b) (6), (b) (7)(C) is their former boss, and given my relationship with him, I don't think he would back me in a disagreement. So I have not pushed the issue or the rudeness led by (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) will yell at me, but she is known to yell at people." [Encl (5)].

vvvvv. Mr. Cohodes stated, "We have deadlines that need to be met - some from HQ and some by (b) (6), (b) (7)(C) or base. I do not set the deadlines. I do have to set the priorities against competing demands." [Encl (5)].

wwwww. Mr. Cohodes stated, "Sometimes there is pressure on people, yes. It is a fact of the job. It has been more difficult with the problems with the SSC, since we are understaffed and need to correct their mistakes." [Encl (5)].

xxxxx. Mr. Cohodes stated, "I am mostly patient with accounting staff but have been annoyed on occasion because we have so much to do and (b) (6), (b) (7)(C) is on phone with boyfriend and makes me wait, which isn't polite or fair. I have been unhappy about it as it happens daily - but she does her work and I try to avoid confrontation as long as things get done, I haven't made the calls into an issue and try to finesse as much as I can. I have mentioned the calls previously but not for a long time. Currently, I have not been in the office since March 13th." [Encl (5)].

yyyyy. Mr. Cohodes stated, "I haven't been in the office for 11 weeks. I haven't spoken with (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as much as (b) (6), (b) (7)(C) - who works more directly with them. I asked (b) (6), (b) (7)(C) to come back to work over (b) (6), (b) (7)(C)'s objections to help out with the workload. (b) (6), (b) (7)(C) complained that it would slow her down to have to teach (b) (6), (b) (7)(C) how to do things. (b) (6), (b) (7)(C) filed against me May 7th. She came back to work on May 11th. Until I called her to ask her to come back to work, we had not spoken since March 13, my last day in the office." [Encl (5)].

zzzzz. Mr. Cohodes stated about Ms. (b) (6), (b) (7)(C), "She has argued with me about the ability to accomplish tasks and priorities increasingly over the past few weeks. She is annoyed a lot, yes. I am very careful with her. She is open about having (b) (6), (b) (7)(C) and she gets stressed and then gets sick. I am very careful with her. She has also to her credit apologized for her tone and attitude afterwards, saying she was very stressed. But that consideration or teamwork has disappeared in the past few weeks as well." [Encl (5)].

aaaaa. Mr. Cohodes stated, "I have treated them all respectfully because I appreciate their hard work. I don't deserve to be yelled at. I don't deserve rudeness." [Encl (5)].

bbbbb. Mr. Cohodes stated, "There is a lot of data pulling and entering to close a period. I don't have a lot of time to help with the entries given my other duties, and I don't know the entries as they do - (b) (6), (b) (7)(C) has been their 20 years and knows the systems intimately." [Encl (5)].

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cccccc. Mr. Cohodes stated, "[b] (6), (b) (7)(C) has complained that I don't help her enough and that has contributed to situation." [Encl (5)].

dddddd. When Mr. Cohodes was asked, "Did an incident take place on or about mid- April 2020? If yes, what occurred?" Mr. Cohodes stated, "I needed something answered by the end of the day and at the end of [b] (6), (b) (7)(C)'s day, I called to ask where we were. She said she was leaving - and I said what about my question? [b] (6), (b) (7)(C) complained that she had already shut down her computer - did I want her to stay late? I told her to leave and not stay late but that it was unfair that she hadn't responded if only to say she would do it tomorrow. Just leaving without saying anything when she knew I needed the information wasn't right. So yes, this was unfair but not to [b] (6), (b) (7)(C) but to me. I didn't ask her to stay late but the way she handled the situation speaks to her attitude these recent weeks. That I asked her to stay late and yelled at her is a distortion or a flat out lie. I was not happy and told her. And I remember thinking of what [b] (6), (b) (7)(C) would have done had I acted that way to him." [Encl (5)].

eeeeee. When Mr. Cohodes was asked the question, "Did an incident take place on or about April 29, 2020? If yes, what occurred?" Mr. Cohodes stated, "I mentioned this earlier. It was something that I had apologized to [b] (6), (b) (7)(C) multiple times. We had so much work that it slipped through the cracks..." [Encl (5)].

ffffff. Mr. Cohodes stated that [b] (6), (b) (7)(C) [REDACTED] and that she has also needed to take time to take care of her son, who was seriously ill and is recovering. Mr. Cohodes stated, "I have always told her that those were priorities and have offered to drive her but have been refused." [Encl (5)].

gggggg. When Mr. Cohodes was asked the question, "What is your work relationship with Ms. [b] (6), (b) (7)(C) [REDACTED] and Ms. [b] (6), (b) (7)(C) [REDACTED]?" Mr. Cohodes stated, "[b] (6), (b) (7)(C) [REDACTED] report first to [b] (6), (b) (7)(C) [REDACTED] and then to me as [b] (6), (b) (7)(C)'s supervisor. [b] (6), (b) (7)(C) does good work - she is detail oriented in her position, however, she can be argumentative with myself and others. For example, she made it difficult for SSC when they visited to learn our operations and I had several comments made to me about her behavior. [b] (6), (b) (7)(C) also does good work however, in my opinion she is not as proficient as [b] (6), (b) (7)(C). [b] (6), (b) (7)(C) is not as aggressive in her tone and demeanor as [b] (6), (b) (7)(C), but she has exhibited behavior that I would consider as teetering on insubordination. For example, on certain occasions, [b] (6), (b) (7)(C) has refused to perform certain job duties that I assigned to her." [Encl (6)].

hhhhhh. When Mr. Cohodes was asked the question, "Did either Ms. [b] (6), (b) (7)(C) or Ms. [b] (6), (b) (7)(C) express to you in some way that your behavior was unwanted?" Mr. Cohodes stated, "I am unsure how to adequately respond to this question as I cannot interpret the word 'unwanted.' With that being said, yes. [b] (6), (b) (7)(C) has been very outspoken, and at times argumentative, regarding her disagreements on the department's work product. I have also felt disrespected by [b] (6), (b) (7)(C) on several occasions as her supervisor. For example, on May 20, 2020, I requested that [b] (6), (b) (7)(C) call me to explain an email I received she sent me. [b] (6), (b) (7)(C) responded to me by text and email that she would not be contacting me. I finally reached out to her via phone in an attempt to understand some transactions that needed to be immediately addressed. [b] (6), (b) (7)(C)'s first comment to me involved whether I believed if she could clearly write an email. She

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continued making comments that I do not listen to her and that she had previously provided the answer to me. (b) (6), (b) (7)(C) has made similar comments and accusations in the past. She often gets frustrated and does not want to discuss certain items with me or provide a more detailed explanation despite my need for clarification. This behavior makes me feel disrespected by my support staff.

"(b) (6), (b) (7)(C) is not as aggressive. However, as stated above, (b) (6), (b) (7)(C) has refused to perform certain job duties that I assigned to her and has challenged me on numerous occasions.

"As previously indicated, it is my pattern and practice to maintain as peaceful a work environment as possible in order for the department to successfully complete its obligations - despite the stressful nature of the job. In order to achieve this goal, I have attempted to avoid addressing these behaviors directed towards me because it has not affected the department's work product. I have made an ongoing effort to finesse the situation in order to get the work accomplished." [Encl (6)].

iiiiii. When Mr. Cohodes was asked the question, "Do you know whether either Ms. (b) (6), (b) (7)(C) or Ms. Kim (b) (6), (b) (7)(C) a serious medical condition or disability? If yes, describe." Mr. Cohodes stated, "Not to my knowledge. I have never been informed by (b) (6), (b) (7)(C) regarding any medical conditions or disabilities. I do not work closely enough with either of them to have such discussions." [Encl (6)].

jjjjjj. When Mr. Cohodes was asked the question, "Did you ever call an employee into your office and state, 'We should have less problems with the daily sales reconciliation, since those two old ladies are going to retire,' or words to that affect?" Mr. Cohodes stated "I have never made any comments like that and any indication to the contrary would be a fabrication. Firstly, I would never be that rude to two hard working ladies both of whom were kind to me and did the best they could. There were issues with some of their work - (b) (6), (b) (7)(C) resented catching their mistakes and the mistakes annoyed (b) (6), (b) (7)(C), but the two ladies in question have both retired and were very helpful. I liked and appreciated both of them - and I have always defended my staff. They worked hard their whole lives and I respect that. This accusation is extremely disappointing to me." [Encl (6)].

kkkkkk. When Mr. (b) (6), (b) (7)(C) was asked, "Did Ms. (b) (6), (b) (7)(C) discuss with you her concern about her medical condition and concerns about how the Finance office was being staffed in and around the Covid-19 period? If yes, describe?" Mr. (b) (6), (b) (7)(C) responded, "No," and "I don't remember at all talking to (b) (6), (b) (7)(C) at all during the last couple of months." [Encl (8)].

llllll. On 20 May 2020, Mr. (b) (6), (b) (7)(C) stated that he "gets along well" with Mr. Cohodes. [Encl (20)].

mmmmmm. On 22 May 2020, Ms. (b) (6), (b) (7)(C) sent an email to the Investigating Officer regarding her concern that the situation among Mr. Cohodes and the Finance staff members had escalated to the point where Ms. (b) (6), (b) (7)(C) is "no longer communicating with Mr. Cohodes and has put his email notifications on 'do not disturb.'" This is extremely upsetting to Mr. Cohodes because the department is under significant deadlines and to have an employee not communicate with him is impacting his ability to perform his job. I wanted to personally inform you of this information because I did not want this to appear

retaliatory in response to the hostile work environment allegations that have been filed against him. I have attached a text message below and three emails demonstrating [REDACTED]'s behavior towards Mr. Cohodes. I have an additional text message that I will be sending you as well. In addition to providing you with this information, I would like to set up a time to speak regarding Mr. Cohodes EEO complaint. Can you please provide with a time you are available for a telephone call?" [Encl (39, (40), and (42)].

oooooo. On 28 May 2020, Ms. (b) (6), (b) (7)(C) [REDACTED] of the Law Offices of (b) (6), (b) (7)(C) [REDACTED], called the Investigating Officer, mainly about the escalating situation between Mr. Cohodes and his staff members. The main points and claims from Ms. (b) (6), (b) (7)(C):

That "[§ 87(2)(b), § 87(2)(g)] has a pattern and practice of retaliatory behavior." [Encl (41)].

C. (b) (5) [REDACTED]

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d. (b) (5) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] [(FF: (b))].

e. (b) (5) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[FF: (hhhh), (iiii), (jjjjj), (mmmmm), and (nnnnn)].

f. (b) (5) [REDACTED]  
[REDACTED] [FF:  
(llll) and (jjjjj)].

#### 4. Recommendations

a. That MCCS undergo an internal management review to review and update policies, procedures, and communications as necessary.

b. This management inquiry contains no legal findings. It is recommended this management inquiry and all enclosures are forwarded to Ms. (b) (6), (b) (7)(C) [REDACTED] Western Area Counsel Office for legal review. In addition, a copy with all enclosures of this inquiry should also be forwarded to MCIWEST, DEEO, MCIWEST/MCB Camp Pendleton ATTN: (b) (6), (b) (7)(C) [REDACTED] and the MCCS, Human Resources Department (HRD) ATTN: Ms. (b) (6), (b) (7)(C) [REDACTED] for appropriate review.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Date